

CITY OF HAYWARD AGENDA REPORT

AGENDA DATE 11128100
AGENDA ITEM WORK SESSION ITEM

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Appeal of Planning Commission Approval of Use Permit/Site Plan Review No.

00-160-11 - GRAE Ventures, Inc. (Applicant/Appellant)/Sellau Properties, Inc. & Wirrulla Hayward, LLC (Owners) - Request to Include a 4-Bay Membership Gas Station in Association with a Proposed 129,600-Square-Foot Regional Retail Building, in a Retail Center that also Includes a Pad for a Future 25,000-Square-Foot Subregional Retail Building, on Approximately 13 Acres; and to Eliminate the Condition of Approval Requiring that Overhead Utility Lines be Placed Underground - The Project Is Located at the Northeast Corner of Whipple Road

and Industrial Parkway Southwest

RECOMMENDATION:

It is recommended that the City Council adopt the Mitigated Negative Declaration, deny the appeal, and approve the Use Permit/Site Plan Review Application subject to the attached findings and conditions of approval, including the elimination of the proposed gas station and the undergrounding of utilities.

DISCUSSION:

The applicant/appellant originally requested use permit/site plan review to accommodate construction of a retail center on approximately 13 acres, including a 129,600-square-foot regional retail building with an associated 4-bay membership gas station, and a pad for a future 25,000-square-foot subregional retail building. The Planning Commission approved the project on November 2, 2000 (S-1-O), subject to elimination of the gas station. The single "no" vote was cast because of a desire to include the gas station. The applicant/appellant has appealed the Planning Commission action in order to reinstate the gas station at the northeast corner of Industrial Parkway Southwest and Whipple Road as a part of the project. As a secondary issue, the applicant/appellant has also appealed the condition of approval requiring those existing utility lines be placed underground. The appeal also enables the City Council to review any portion of, or issue regarding, the proposed project.

The proposed development, known as Hayward Plaza, is located within the "I" District at the southern gateway to Hayward. The site is designated as "Industrial Corridor" on the General Policies Plan Map. The Zoning Ordinance specifically recognizes this site as a prime location for regional or sub-regional retailers due to its location at the junction of two arterial roadways, access

to the Nimitz Freeway (I-880), and high visibility. Commercial retail development of this nature is allowed in the "I" District on minimum 4-acre parcels visible from the freeway with the Planning Commission's approval of a Conditional Use Permit.

The project sponsor, GRAE Ventures, Inc., proposes to house a *Sam's* Club membership retail store in the 129,600-square-foot building, However, no tenant has been secured to date for the 25,000-square-foot building. A condition of approval requires that the future tenant be a regional or subregional retail use consistent with the requirements of the Industrial District.

The Planning Commission excluded the gas station as part of this project because this intersection is at a primary entrance to the City, and this location will be the most prominent as northbound vehicles exit the Nimitz Freeway to access the industrial corridor of Hayward. The Planning Commission concurred with staff's opinion that the gas station detracts from the views into the site and does not present a gateway image. The City's Design Guidelines call for a strong sense of entry at major intersections providing identification for the City and, in this case, the project. This project is currently designed with a master sign and landscape feature at the intersection of Industrial Parkway Southwest and Whipple Road; the lightweight appearance of a gas station canopy, especially against the solid presence of the primary structures, detracts from this feature. Similarly, the existing overhead utility lines contribute to visual clutter and also detract from views of the proposed buildings and of the hills in the background. The condition of approval to underground these utility lines is an appropriate measure to ensure that this project meets the City's Design Guidelines. It is the City's policy to require utility undergrounding with all new major projects.

Because the gas station would serve only *Sam*'s Club members, it would not necessarily serve a community need. In fact, there are two other gas stations in the immediate vicinity to serve this purpose. Furthermore, because the gas station would be on a separate parcel, the City would not have the authority to require an on-going association between the retail store and the gas station. Should *Sam*'s *Club*, or a future tenant, decide not to operate the gas station, independent operation of the gas station could occur. Staff believes that the site plan is not conducive to independent operation of the gas station, as there is no access to the gas station independent from the project entries to serve the customers or the delivery trucks. Additionally, the access to the gas station is circuitous and users of the gas station must make their way through parking lot aisles, creating conflicts with vehicles searching for parking spaces.

The City Council Commercial Center Improvement Committee (CCCCIC), at its meeting of July 17, 2000, also recommended that the gas station not be located at this prime location. In a similar situation, the Planning Commission denied a membership gas station for *Costco* on November 18, 1999, because it was not consistent with the goals and objectives of the *Economic Development Element* in that it would not fulfil an unmet need for a service that is currently lacking.

Site Plan

The applicant had considered alternative sites for the gas station. However, the applicant believes that there are no viable options and that the proposed site plan best utilizes the property, given its awkward shape and the need to screen the truck loading and *the* auto repair/tire facility of the *Sam's Club* facility.

The larger Sam's *Club* building is proposed at the southeast comer of the site along Whipple Road with the storefront facing Industrial Parkway Southwest and the loading area facing Wiegman Road. The smaller building is set back in the northwest portion of the site toward Industrial Parkway SW, facing Whipple Road.

Access to the site is provided from four driveways: a driveway on Jndustrial Parkway SW (across a new box culvert crossing the Alameda County Flood Control channel), two driveways on Whipple Road, and a driveway on Wiegman Road. All driveways will be stop sign controlled for vehicles exiting the site. Truck access is provided from the easternmost driveway on Whipple Road and the driveway on Wiegman Road.

Environmental Review

The project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Checklist was prepared for the project. Issues with potentially significant impacts discussed in the checklist were in regard to air quality, geologic/seismic, traffic/circulation and wetland/riparian conditions. It was determined that the proposed project, as conditioned to include the recommended mitigation measures, could not result in significant effects on the environment, Therefore, a mitigated negative declaration was filed on October 2, 2000.

The project is subject to the issuance of a Department of the Army Individual Permit, a Section 401 Water Quality Certification, and a California Department of Fish & Game Streambed Alteration Agreement regarding the wetlands mitigation plan and the improvements to the flood control channel. This project is subject to, and shall comply with, all requirements and conditions of these permits, certifications and agreements. Any modification to this use permit, and its conditions of approval, due to compliance with these permits, certifications and agreements shall require review and approval by the Planning Director.

Public Comments

Two persons spoke in favor of the project during the Planning Commission hearing: there was no opposition. One of those in favor commented that Sam's Club should consider the senior population in the nearby mobilehome parks when hiring. Additionally, two representatives from the Audubon Society asked the Commission to carefully consider the project's impacts on the flood control channel and the wetlands.

CONCLUSION:

GRAE Ventures' proposal for a regional-based retail center is consistent with the City's goals and policies for development on this site and provides an anchor at Hayward's southern gateway. The proposed center will provide a retail/service option not currently provided in the City of Hayward. The architecture, building materials and signage establish a new design theme for this area of the City while remaining compatible with the industrial nature of the corridor. However, the gas station cannot be recommended at this important gateway to the City for aesthetic and functional reasons. Similarly, the undergrounding of the existing utilities will enhance this gateway area by eliminating visual clutter against the background of the proposed buildings. Should the gas station be approved, staff will need to develop conditions of approval for its operation and return them to the Council for consideration.

Prepared by:

Richard E. Patenaude, AICP Acting Principal Planner

Recommended by:

Sylvia Ehrenthal

Director of Community and Economic Development

Approved by:

Jesús Armas, City Manager

Attachments:

Exhibit A - Area/Zoning Map

Exhibit B – Findings for Approval

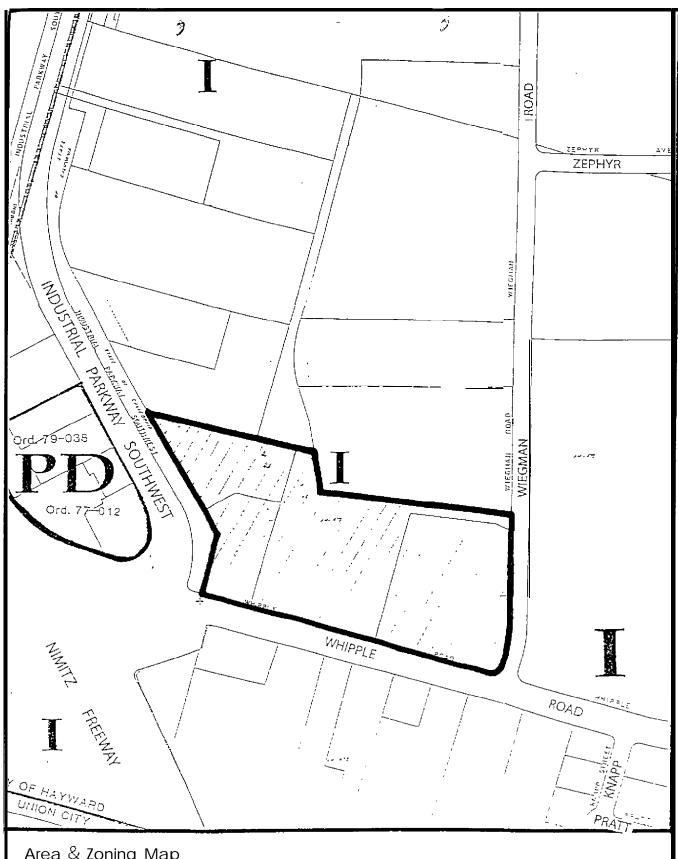
Exhibit C – Conditions of Approval

Exhibit D - Letter of Appeal dated November 13, 2000

Exhibit E - Draft Planning Commission Meeting Minutes and Staff Report dated November 2, 2000

Draft Resolution

11 16.00



Area & Zoning Map

UP 00-I 60-I 1

Northeast Corner of Whipple Road and Industrial Parkway Southwest

Applicant: GRAE Ventures, Inc.

Owner: Sellau Properties, Inc & Wirrulla Hayward, LLC

FINDINGS FOR APPROVAL

Use Permit/Site Plan Review No. 00-160-11
Whipple Road @ Industrial Parkway SW
GRAE Ventures, Inc. (Applicant)
Sellau Properties, Inc. & Wirrulla Hayward, LLC (Owner)

Based on the staff report and the public hearing record:

- A. The project application has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Evaluation Checklist has been prepared for the proposed project. The Initial **Study** has determined that the proposed project, with the recommended mitigation measures, could not result in significant effects on the environment.
- B. The project is in conformance with the General Policies Plan Map designation of Industrial Corridor, It has been detennined that regional and subregional retail uses may be compatible on lands within the Corridor, which also have direct access to major transportation routes. The subject property is located proximate to the Nimitz Freeway (Route I-880).
- C. The project is in conformance with the intent and purpose of the Zoning Ordinance designation of Industrial (I) as proposed. Such district permits regional and subregional retail uses provided that such use complies with the General Policies Plan and that such uses are located on properties in excess of 4 acres. The subject property contains approximately 13 acres.
- D The development, as conditioned. will provide a use that will be in conformity with applicable performance standards, will be appropriate in size, location and overall planning for the purpose intended, will create an environment of sustained desirability and stability through the design and development standards, and will have no substantial adverse effect upon surrounding commercial and industrial development in that the proposed use is permitted at this location. The project shall comply with the Hayward Design Guidelines, the Landscape Beautification Plan and all other applicable performance standards.
- E. The proposed gas station is *not* desirable for the public convenience or welfare in that there are adequate services available in the immediate area and that the use of the gas station, as proposed, is limited on a membership basis. The gas station further impedes compliance with the City's design guidelines in that its operation and design is a detriment to this important image zone for the City of Hayward.
- F. The facility known as Retail #1 is in excess of 10,000 square feet of floor area and will devote not more than 5 percent of such floor area to the sale, display and storage of

- alcoholic **beverages.** As such, the facility will be properly regulated and controlled to ensure that the public health and safety, and the public convenience and necessity, are provided with respect to sale and use of alcoholic beverages at this facility.
- **G.** The surrounding streets and utilities, with the required modifications, are adequate to serve the development.
- **H.** The project will not affect population projections, induce substantial growth or displace existing housing,
- I. The project site is not located within a "State of California Earthquake Fault Zone." Construction related to this project will be required to comply with the Uniform Building Code standards to minimize seismic risk due to ground-shaking.
- J. The project site contains 3.43 acres of wetlands and a channelized flood control facility. The wetlands is under the jurisdiction of the **Amy Corps of Engineers.** Although the wetlands supports only limited aquatic life, it will be subject to the conditions of a **Department of** the Army Individual Permit, a Section 401 Water Quality Certification, and a California Department of Fish & Game Streambed Alteration Agreement. No endangered, threatened or rare species are known to inhabit the project site.
- K. A requirement to reduce dust generation and exhaust emissions during construction will reduce air quality impacts to a level of insignificance.
- L. The project provides **an** additional westbound right-turn lane and a westbound throughlane at Whipple Road/Industrial Parkway SW. Intersections will continue to operate at LOS D or better.
- M. Construction related to this project will be designed to perform to applicable codes, and, therefore, would not be in conflict with adopted energy conservation plans.
- N. The Fire Department will require appropriate measures to reduce any release of hazardous materials below an acceptable level of risk.
- O. The project will have no effect on government services or utilities.
- P. No known archaeological or paleontological resources exist on the project site.

CONDITIONS OF APPROVAL

Use Permit/Site Plan Review No. 00-160-11
Industrial Pkwy. SW @ Whipple Rd.
David Gilmore for GRAE Ventures Inc. (Applicant)
Wirulla Hayward LLC & Sellau Properties, Inc. (Owner)

Planning Division

- 1. Use Permit/Site Plan Review No. 00-160-11 to accommodate construction of a commercial retail center consisting of a 129.600-square-foot retail building, and a pad for a future 25,000-square-foot retail building, shall be constructed according to these conditions of approval and the plans approved by the City Council on November 28, 2000. The tenants of both buildings shall be regional or subregional retail establishments.
- 2. This approval is void one year after the effective date of approval unless prior to that time an extension is approved. Any modification to this permit shall require review and approval by the Planning Director. A request for a one-year extension-of-time, approval of which is not guaranteed, must be submitted to the Planning Division at least 30 days prior to November 28, 2001.
- 3. The project is subject to the issuance of a Department of the Army Nationwide 26 Permit, a Section 401 Water Quality Certification, and a California Department of Fish & Game Stream Alteration Agreement. This project is subject to. and shall comply with, all requirements and conditions of these permits, certifications and agreements. Any modification to this use permit, and its conditions of approval, due to compliance with these permits, certifications and agreements shall require review and approval by the Planning Director.
- 4. Unless otherwise required, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Planning Director prior to final inspection and occupancy of any structures.
- 5. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
- 6. Violation of these conditions is cause for revocation of permit, after a public hearing before the duly authorized review body.
- 7. No outside storage of material, crates, boxes, etc. shall be permitted anywhere on site, except within the trash enclosure area as permitted by file codes and within areas designated for outdoor display of merchandise for sale. No material shall be stacked higher than the height of the trash enclosure screen wall and gate.

- 8. Tenant management shall take reasonable necessary steps to assure the orderly conduct of employees, patrons and visitors on the premises to the degree that surrounding commercial uses would not be bothered and that loitering is not permitted.
- 9. Sidewalks and parking lots must be kept free of litter and debris and to minimize the amount of wind-blown debris into the wetlands mitigation area and surrounding properties. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system, No cleaning agent may be discharged to the storm drain. If any cleaning agent or degreaser is used, washwater shall not discharge to the storm drains; washwaters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval, and conditions of the City wastewater treatment plant. Mechanical groundskeeping activities, such as leaf blowers and parking lot sweepers, shall be limited to daylight hours only; early morning hours shall be avoided as much as possible.
- 10. A minimum of two trash receptacles shall be placed at each customer entry to both buildings. Trash receptacles shall be a decorative, pre-cast concrete type with a self-closing metal lid.
- 11. No vending machines shall be displayed outside the building. except for newspaper racks.
- 12. The applicant, owner(s) and/or tenants shall maintain in good repair all building exteriors, walls, lighting, trash enclosure. drainage facilities, driveways and parking areas. The premises shall be kept clean. Any graffiti painted on the property shall be painted out or removed within seven days of occurrence.
- 13. Delivery vehicles shall access the site from Wiegman Road or the most-easterly Whipple Road driveway only.
- 14. The site must be surveyed for burrowing owls during the nesting season (February 1 August 31) to determine if owls occur on the site or within 250 feet of the site. The methods must follow the Department of Fish & Game's survey protocol. The survey report will be submitted to the Department of Fish & Game (DFG) for review and approval. If Owls are observed during the surveys (or have nested on the site within the last three years) a burrowing owl habitat map and mitigation plan must be prepared by a qualified ornithologist. Impacts to the burrowing owls shall be mitigated through the protection and enhancement of off-site habitat at a 1:1 acreage replacement ratio. Written verification that the DFG has approved the mitigation plan must be submitted to the Planning Division before a grading permit will be issued. Within 30 days prior to any site alteration, pre-construction surveys for burrowing owls must be conducted and the report must be submitted to the DFG for review and approval. If owls are observed during the pre-construction surveys, no impacts will be allowed during the nesting season. Verification that the DFG has determined that the pre-construction surveys are adequate must be provided to the Planning Division.

- 15. The following conditions shall apply regarding the sale of alcoholic beverages:
 - a. There shall be no sale of malt liquor;
 - b. There shall be no sale of single-serving containers;
 - c. There shall be no sale of refrigerated containers;
 - d. There shall be no promotional advertising of alcoholic beverages nor shall there be any advertising of alcoholic beverages visible from the exterior of the building.

Design

- 16. Shopping cart storage and retrieval area(s) shall be screened from view from the parking lot and adjacent streets and properties by a solid masonry wall at least 3 feet in height. The materials and colors of this wall shall be consistent with those of the structure. Adequate retrieval areas shall be placed within the parking lot.
- 17. All roof mechanical equipment and any satellite dish shall be fully screened from ground-level view within 150 feet of the property.
- 18. Prior to occupancy and the installation of any signs, the applicant shall submit a Sign Permit Application to the Planning Director for review and approval, subject to the following:
 - a. compliance with the City of Hayward Sign Regulations;
 - b. the sign program may include one freeway-oriented sign. and two monument signs (one per street frontage);
 - **c.** the base and framing of any freestanding/monument sign shall reflect the architectural design, colors and materials of the building:
 - d. wall signs shall use individual channel letters:
 - e. directional signs shall not exceed 6 sq.ft. in area per face and 3 feet in height; and
 - f. the applicant/business operator shall not display any illegal banner signs, portable signs or other illegal signs on the property.
- 19. Exterior lighting for the establishment shall be maintained which is adequate for the illumination and protection of the premises but does not exceed a light level that provides glare to motorists, nor spills onto nearby properties, or up into the sky. The fixtures shall be designed to keep the light from spilling onto adjacent properties. Within the parking lot, the minimum requirement is 1-foot candle of light across the entire surface. Luminaires shall be of a design that complements the architectural style of the building and the landscaping in developing a quality image of the City of Hayward and shall be approved by the Planning Director. The maximum height of the luminaires shall be no greater than the height of the structures unless otherwise permitted by the Planning Director. The lighting: and its related photometric, plan shall be reviewed and approved by the Planning Director.

Landscaping

- 20. The applicant shall submit detailed landscaping and irrigation plans prepared by a licensed landscape architect for review and approval by the City. Landscaping and irrigation plans shall comply with the City's Water Efficient Landscape Ordinance and the following requirements:
 - a. Parking areas shall include a minimum of one 15-gallon parking lot tree for every six parking stalls. The minimum dimension of any new tree well or landscape median shall be five feet, measured from back of curb.
 - b. Parking areas shall be buffered from the street with shrubs. Where shrubs are used for buffering, their type and spacing shall create a continuous 30-inch high screen within two years. In compliance with this condition, additional shrubs will be required along Industrial Parkway SW and Whipple Road.
 - c. All blank building façades, at the discretion of the Planning Director, shall be softened with a combination of vertical-growth landscape materials and vines on decorative trellises.
 - d. Planters, which line the driveways along the fronts of Retail #1 and Pad #1, shall incorporate a temporary decorative barrier to protect plant materials from pedestrian traffic and shopping carts until plants have matured.
 - e. Above ground utilities (e.g. gas or electric meters, backflow devices) shall be screened from the street with shrubs.
 - f. Where any landscaped area adjoins driveways or parking areas, Class B Portland Cement concrete curbs shall be constructed to a height of six inches above the adjacent finished pavement.
 - g. Landscaping contiguous with the wetlands mitigation area shall provide a compatible transition zone between the site and wetland vegetation. The wetlands mitigation area shall be vegetated as recommended in the wetland mitigation plan.
 - h. A decorative fence, to be approved by the Planning Director and the Fire Chief, and which meets the conditions and requirements of the Department of the Army Nationwide 26 Permit, the Section 401 Water Quality Certification, and the California Department of Fish & Game Stream Alteration Agreement, shall be provided between the site and the wetlands mitigation area. Landscaping materials shall be installed along the northerly side of the fence that will provide a dense screen at least three feet high when mature. Until maturity is achieved. a temporary 3-foot-high screen shall be placed along the base of the fence to stem the flow of litter and debris from the parking lot; the Planning Director shall approve such screen.
 - i. Street trees, low shrubs and groundcover shall be planted along Industrial Parkway SW and Whipple Road. Trees shall be minimum 24-inch box planted 40 feet apart according to City Standard Detail SD-1 10.
 - j. Evergreen trees shall be planted every 20 feet along the northerly property line, Trees shall be minimum 15-gallon.
- 21. Landscaping shall be installed and a Certificate of Substantial Completion and an Irrigation Schedule shall be submitted prior to issuance of a Certificate of Occupancy.

- 22. Landscaping shall be maintained in a healthy, weed-free condition at all times and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration. and minimize the use of fertilizers and pesticides, which can contribute to runoff pollution. The owner's representative shall inspect the landscaping on a monthly basis and any dead or dying plants {plants that exhibit over 30% dieback) shall be replaced within ten days of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected by, and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Municipal Code.
- 23. A landscape and general maintenance agreement shall be entered into between all property owners/tenants and recorded prior to issuance of any building permit. Such agreement shall address the common maintenance of the landscape areas and the parking lot and its fixtures, as well as litter pick-up. Such agreement shall be approved by the City Attorney.

Parking/Driveways

- 24. All parking stalls and maneuvering areas shall meet the minimum standards of the City Parking Ordinance. The parking areas shall be paved with either Portland cement or asphalt concrete and the area shall be striped to designate the parking stalls. The Planning Director shall approve the design of the driveway, curbing and materials to be used. Aisles, approach lanes, drive-through lanes and maneuvering areas shall be marked and maintained with directional arrows and striping to control traffic flow.
- 25. Vehicular circulation areas shall be signed as a fire lane and posted for no parking except within designated parking stalls and pick-up areas.
- 26. The Industrial Parkway SW and the westerly Whipple Road driveway entries, between the property line and the first cross aisle, shall be enhanced with decorative pavement such as colored, stamped concrete (bomanite or equivalent), brick, concrete interlocking pavers, or other approved materials. The Planning Director shall approve the location, design and materials utilized.
- 27. A reciprocal, permanent and non-exclusive access and parking agreement shall be entered into between all property owners/tenants and recorded prior to issuance of any building permit. Such agreement shall include the installation and maintenance of lighting. Such agreement shall be approved by the City Attorney.

Building Division

28. Applicant shall apply for all necessary building permits from the Building Division. All structures, antenna and utility improvements shall be in accordance with the Uniform Building Code, National Electrical Code, Uniform Fire Code, and any applicable code as adopted by the City of Hayward.

- 29. The project plans shall include storm water measures for the operation and maintenance of the project for the review and approvai of the City Engineer prior to occupancy. The project plan shall identify Best Management Practices (BMPS) appropriate to the uses conducted onsite to effectively prohibit the entry of pollutants into stormwater runoff. Prior to issuance of a building permit, a drainage plan shall be submitted that meets the approval of the Planning Director, and shall include the following:
 - a. That all storm water is conveyed into City of Hayward or Alameda County Flood Control District facilities.
 - b. Structural controls such as oil/water separator, sand filter or fossil filter or other approved devices per applicant's discretion which accomplish the same shall be installed to intercept and treat storm water prior to discharging to the storm drain system. The design, location, and a maintenance schedule shall be submitted to the City Engineer for review and approval prior to the issuance of a building permit.
 - c. Erosion control measures to prevent soil, dirt and debris from entering the storm drain system during construction, in accordance with the regulations outlined in the ABAG Erosion and Sediment Control Handbook.
 - d. The labeling of all on-site storm drain inlets in the shopping center with "No Dumping Drains to Bay," using approved methods approved by the City.
 - e. The cleaning of all storm drains in the shopping center at least once a year immediately prior to the rainy season (October 15th). The City Engineer may require additional cleaning.
 - f. No storm water shall be discharged to the sanitary sewer without a Wastewater Discharge Permit, which will be issued only if there is no feasible alternative, This means that if washing takes place in the trash area, the wash water shall be discharged to the sanitary sewer. If this area is covered and protected from storm water runoff, a permit is not necessary.
 - g. Drains in any wash or process area shall not discharge to the storm drain system. Drains should connect to an approved collection system. The collection system is subject to the review and approval of the City Engineer prior to the issuance of a building permit.
 - h. Truck loading docks shall be constructed so to prevent run-off of drainage from outside the dock; and to minimize the discharge of dock area flows to the storm drain.
- 30. The National Pollution Discharge Elimination System (NPDES) standards shall be met. A Notice of Intent permit is required from the Regional Water Quality Control Board prior to the start of any grading. The applicant shall submit a construction Best Management Practice (BMP) program for review and approval by the City prior to the issuance of any building or grading permits. These BMPs shall be implemented by the general contractor and all subcontractors and suppliers of material and equipment. Construction site cleanup and control of construction debris shall also be addressed in this program. The applicant is responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations or a project stop work order. The NPDES program shall include the following items:
 - a. Gather all construction debris on a regular basis and place them in a dumpster or other container, which is emptied or removed on a weekly basis. When appropriate, use tarps

- on the ground to collect fallen debris or splatters that could contribute to storm water pollution.
- b. Remove all dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work,
- c. Broom sweep the sidewalk and public street pavement adjoining the project site on a daily basis, Caked on mud or dirt shall be scraped from these areas before sweeping,
- d. Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site prior to: 1) start of the rainy season (October 15), 2) site dewatering activities, or 3) street washing activities, 4) saw cutting asphalt or concrete, in order to retain any debris or dirt flowing into the City storm drain system as necessary. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash.
- e. Create a contained and covered area on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides or any other materials used on the project site that have the potential for being discharged to the storm drain system through being windblown or in the event of a material spill.
- f. Never clean machinery, tools, brushes, etc. or rinse containers into a street, gutter, storm drain or stream.
- g. Ensure that concretelgunite supply trucks or concrete/plasters finishing operations do not discharge washwater into street gutters or drains.
- 31. Water Pollution Source Control requirements shall include but not be limited to the following:
 - a. No polluted waters from HVAC units shall be discharged to the storm drain via roof drains. Uncontaminated condensate is acceptable for storm drain discharge.
 - b. All wastewater and washing operations shall be discharged to the sanitary sewer and not the storm drain, including mat cleaning and any washing of the trash area.
 - c. The sanitary sewer discharge from this facility shall be in compliance with all wastewater discharge regulations, prohibitions and limitations to discharge, including the 300-milligram per liter oil and grease limit. A monitoring structure (SD309) shall be constructed on the sewer lateral for each building.
 - d. Materials, gasoline spill, oil spill, heavy stains, radiator fluid, litter, etc. shall be picked-up by dry methods and sweeping so as not to pollute stormwater runoff.
 - e. All discharges and connections shall require approval from Water Pollution Source Control.
- 32. There are two deep-water wells located on this property. One of the wells has been destroyed; however, this well shall be destroyed by means set out under current standards of the Alameda County Public Works Agency (ACPWA) and the Alameda County Water District (ACWD). Any other wells on the property shall be located and destroyed in a similar manner. Field activities shall be coordinated with ACPWA and ACWD so that a well inspector can be present during the destruction of any wells. Contact the ACPWA, Water Resources Section, at 510-670-5554 to obtain the proper permits.

Utilities

- 33. Prior to issuance of a building permit, the developer shall submit gallon per minute demand to determine proper meter size.
- 34. Install Reduced Pressure Backflow Prevention Assembly per City of Hayward Standard Detail 202 on all domestic & irrigation water meters.
- 35. Installation of a separate irrigation meter to avoid sanitary sewer charges on water used for landscape purposes is recommended.
- 36. Only Water Distribution Personnel shall perform operation of valves on the Hayward Water System.
- 37. Provide keys/access code/automatic gate opener to utilities for all meters enclosed by a fence/gate per Hayward Municipal Code 11-2.02.1.
- 38. Water service shall be made available subject to standard conditions and fees in effect at time of application. Allow 4-6 weeks from time of application to installation of water services.
- 39. Sanitary connections for the new retail building shall be subject to the review, approval, and conditions of the City wastewater treatment plant.
- 40. All water mains shall be looped.
- **41.** Any **water or sewer** services that cross CalTrans right-of-way will require a CalTrans permit.

Public Safety

- 42. The plans shall be submitted for proper building permits and fire permits. At that time, additional requirements will be addressed which pertain to the tenant usage. which will include storage of hazardous materials on storage racking, lumber storage, high pile storage issues, etc. A completed Hazardous Materials Inventory shall be submitted for each building for review by the Fire Department.
- 43. The building will have an automatic fire sprinkler system installed. The fire sprinkler system shall be designed per NFPA 13 & 24 Standards. If HPS is to occur, then NFPA 231/231-C Standards shall be met for ceiling fire sprinkler densities. Fire extinguishers are also required throughout the building.
- 44. Fire hydrants are required on site at 300-foot intervals. An additional fire hydrant shall be installed along Industrial Parkway SW at the entrance; this shall be a public hydrant. Fire hydrants shall be double-steamer type with two 4%" outlets and one 2%" outlet. Fire

flows shall meet the 1998 CFC, Appendix III-A. Minimum flows for the private fire hydrants shall be 2500 GPM @ 20 PSI.

- 45. The applicant shall comply with all requirements of the Uniform Fire Code and the City's Hazardous Materials Ordinance including but not limited to the following:
 - a. Demolition and construction activities shall meet the requirements of the Hayward Fire Code, Article 87 - "Fire Safety During Construction. Alteration or Demolition of a Building",
 - b. Emergency access shall meet the Hayward Fire Department standards for emergency vehicle turning radius.
 - c. The trash enclosure shall be of a non-combustible construction.
 - d. Fire lanes shall be identified with red curbing and signage.
- 46. The project shall comply with the requirements of the Hayward Security Ordinance, dated October 16, 1990. Building addresses shall be installed in approved locations on the building so as to be visible from the street, or provided on a monument sign at the driveway entrances.
- 47. Any public telephone(s) shall be located within the interior of the building, unless otherwise authorized by the Planning Director. Any public telephone allowed to be installed on the exterior of the building shall be limited to out-going calls only and shall be located near the store entry.

Solid Waste

- 48. The owner(s) and/or tenants shall participate in the City's recycling program. The applicant shall clearly indicate the proposed location and dimensions of each enclosure, indicating whether the trash and recyclables will be compacted. The applicant must also indicate the number and type of refuse and recycling containers that will be used. The space and available capacity provided for the storage of trash must be the same size as that provided for recyclables. The procedure that must be followed regarding sorting and collection of recyclables is provided for in Section 3.2.02 of the Franchise Agreement.
- 49. A 6-inch wide curb or parking bumpers must be provided along the interior perimeter of trash enclosure walls to protect them from damage by the dumpster. A 6-inch wide parking bumper, at least 3 foot long, should also be placed between the refuse dumpster(s) and the recycling containers.
- 50. A minimum space of 12 inches must be maintained between the dumpster(s) and the walls of any trash enclosure and the recycling carts/dumpster to allow for maneuvering the dumpster(s). A drain to the sanitary sewer should be provided beneath the refuse dumpster(s) wherever wet waste, such as food waste, is generated and wherever can washing areas are located.
- 51. If any equipment/trash enclosure is gated, the gates and hinges must be flush with the enclosure wall. It is important to ensure that the gates open straight out and that the hinges

- and that the gate be flush with the enclosure wall, in order to allow adequate maneuverability of the equipment/dumpster in and out of the enclosure to service it.
- 52. The applicant must ensure that there is adequate space for a garbage truck to service each dumpster. A 40-foot turning radius is adequate for garbage trucks.
- 53. The applicant is required to submit for review by the Solid Waste Manager an on-site recycling plan, which would be implemented during the entire demolition and construction phases. The plan must:
 - a. Show the anticipated start and completion dates of the project.
 - b. Estimate the quantities of construction and demolition waste that will be generated by the project.
 - **c**. Estimate the quantities of material that will be recycled and identify the facilities that will be used.
- 54. The applicant must ensure that construction and demolition debris is removed from the site by a licensed contractor as an incidental part of a total construction, remodeling, or demolition service offered by that contractor, rather than as a separately contracted or subcontracted hauling service using debris boxes, or is directly loaded onto a fixed body vehicle and hauled directly to a disposal facility that holds all applicable permits.
- 55. The applicant shall provide for adequate on-site storage capacity for recyclables within the buildings, including storage space for containers to store paper, glass/plastic/metal beverage containers, and other recyclables where these materials are generated.
- 56. The applicant shall ensure that the specifications of any compactor meet the approval of Waste Management.
- 57. The applicant must contact the City's franchised hauler, Waste Management of Alameda County, at 537-5500 to arrange for delivery of containers with sufficient capacity to store construction and demolition materials to be landfilled.

Engineering/Transportation Division

- 58. The new box culvert over the flood control channel shall be designed to withstand the GVM of fire apparatus (50,000 lbs.).
- 59. The property frontage along Industrial Parkway SW shall be improved with standard curb, gutter, K-rail barrier and tie-in pavement. The street alignment shall conform to the Precise Plan Line per city file H-635 as modified by the City's Preliminary Industrial Parkway Southwest Road Improvement Plans.
- 60. Dedicate right-of-way on Whipple Road to accommodate the proposed right-turn lane and sidewalk; dedication shall be made prior to issuance of any building permit. Remove the

- existing sidewalk along Whipple Road and construct a 5½-foot Portland cement concrete sidewalk abutting the curb.
- 61. Whipple Road shall be restriped to include a westbound right-turn lane at Industrial Parkway SW, and a westbound thru-lane. The developer is responsible for coordinating the necessary traffic signal modifications with CalTrans. The restriping will also require the removal on parking on the south side of Whipple Road between Industrial Parkway SW and Wiegman Road.
- 62. Install an island at the Whipple Road main driveway to provide for right-turn out only.
- 63. Install a two-way left-turn lane on Whipple Road between Industrial Parkway SW and Wiegman Road as shown in the traffic study dated September 7, 2000. The northerly stretch of Whipple Road directly adjacent to the main driveway shall be striped with the words "KEEP CLEAR" to provide a break for left-turn movements.
- 64. Install a raised median on Whipple Road to prevent left turns into the project driveway directly east of the Whipple Road/Wiegman Road intersection, as shown in the traffic study dated September 7, 2000.
- 65. Raised medians with a width of 5 feet or greater, between curbs, shall be landscaped at the discretion of the Planning Director; automatic irrigation shall be provided where landscaped. Raised medians of lesser width shall consist of decorative materials between curbs.
- 66. A preliminary soils report shall be submitted for review and approval of the City Engineer prior to the issuance of a building permit.
- 67. The applicant shall provide appropriate signage at project entrances and exits. Signage shall meet CalTrans standards. The applicant shall install "Right Turn Only" signs at the exits of all driveways on Industrial Parkway SW and Whipple Road.
- 68. All overhead utility lines along Industrial Parkway SW and Whipple Road shall be placed underground.
- 69. The applicant shall pay the appropriate Supplemental Building Construction & Improvement Tax prior to receipt of a certificate of occupancy.
- 70. Prior to commencement of any clearing, grading or excavation, the developer shall submit evidence to the City that a Notice of Intent (NOI) has been submitted to the State Water Resources Control Board.

DRAFT

HAYWARD CITY COUNCIL



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Introduced by Council Member

RESOLUTION DENYING APPEAL OF PLANNING COMMISSION'S DECISION TO APPROVE USE PERMIT/SITE PLAN REVIEW APPLICATION NO. 00-160-1 1 — GRAE VENTURES, INC. (APPLICANT/APPELLANT) SELLAU PROPERTIES, INC. AND WIRRULLA HAYWARD: LLC (OWNERS)

WHEREAS, Use Permit/Site Plan Review Application No. 00-160-11 involves a request for construction of a 129,000 square-foot retail center, with a regional retail building, a 4-bay membership gas station and a pad for a future 25,000 square-foot subregional retail building, located at the intersection of Whipple Road and Industrial Parkway Southwest in the Industrial ("I") District (the "Project"); and

WHEREAS, a Mitigated Negative Declaration has been prepared and processed in accordance with City and state CEQA guidelines; and

WHEREAS, on November 2, 2000, the Planning Commission held a public hearing on Use Permit/Site Plan Review Application No. 00-160-11, adopted the Mitigated Negative Declaration and approved the Project, subject to certain Conditions of Approval, including the elimination of the proposed gas station and the undergrounding of utilities; and

WHEREAS, on November 13, 2000, the Applicant, Grae Ventures LLC, by and through its attorneys, sent a letter appealing the Planning Commission's approval of Use Permit/Site Plan Review No. 00-160-1 1; and

WHEREAS, the City Council has reviewed and considered all the material presented, including the record of the proceedings before the Planning Commission, at a public hearing held on November 28, 2000, and sustained the action of the Planning Commission, based on the evidence submitted at such hearing; and

WHEREAS, the City Council hereby finds and determines that:

1. The Project application has been reviewed according to the standards and requirements of the California Environmental Quality Act ("CEQA") and an Initial Study Environmental Evaluation Checklist has been prepared for the proposed project. The Initial Study determined that the Project, with recommended mitigation measures, could not result in significant effects on the environment,

- 2. The Project is in conformance with the General Policies Plan Map designation of Industrial Corridor. It has been determined that regional and subregional retail uses may be compatible on lands within the Corridor, which also have direct access to major transportation routes. The subject property is proximate to the Nimitz Freeway (I-880).
- 3. The Project as proposed is in conformance with the intent and purpose of the Zoning Ordinance designation of Industrial ("I"). Such district permits regional and subregional retail uses provided that such use complies with the General Policies Plan and such uses are located on properties in excess of 4 acres. The subject property contains approximately 13 acres. The Project, as conditioned, will provide a use that will be in conformity with applicable performance standards; will be appropriate in size, location and overall planning for the purpose intended; will create an environment of sustained desirability and stability through the design and development standards; and will have no substantial adverse effect on the surrounding commercial and industrial development in that the proposed use is permitted at this location. The Project shall comply with the Hayward Design Guidelines. The surrounding streets and utilities, with required modifications, are adequate to serve the Project, and the Project will have no effect on government services or utilities. The Project provides an additional westbound right-turn lane and a westbound through lane at Whipple Road/Industrial Parkway Southwest. Intersections will continue to operate at LOS D or better. The Project will not affect population projections, induce substantial growth or displace existing housing. The Project is not located within a "State of California Earthquake Fault Zone." Construction related to this Project will be required to comply with the Uniform Building Code and other applicable standards to minimize seismic risk due to ground shaking, and the Project will not be in conflict with adopted energy conservation plans. The City's Fire Department will require appropriate measures to reduce any release of hazardous materials below an acceptable level of risk. A requirement to reduce dust generation and exhaust emissions during construction will reduce air quality impacts to a level of insignificance.
- 4. The proposed gas station is not desirable for the public convenience or welfare in that there are adequate services available in the immediate area and that the use of the gas station is limited to members of the regional retailer. The gas station further impedes compliance with the City's design guidelines in that its operation and design is a detriment to this important image zone for the City.
- 5. The regional retail facility is in excess of 10,000 square feet of floor area and will not devote more than 5 percent of such floor area to the sale, display and storage of alcoholic beverages. The facility will be properly regulated and

controlled to ensure that the public health and safety, and the public convenience and necessity, are provided with respect to sale and use of alcoholic beverages at this facility. Furthermore, the Applicant has agreed to work with staff to develop suitable conditions for the sale and display of alcoholic **beverages**.

6. The Project site contains 3.43 acres of wetlands and a channelized flood control **facility.** The wetlands is under the jurisdiction of the Army Corps of Engineers. Although the wetlands supports only limited aquatic life, it will be subject **to the** conditions of a Department of Army Individual Permit, a Section 401 Water **Quality** Certification and a California Department of Fish & Game Streambed Alteration Agreement. No endangered, threatened or rare species, or archaeological or paleontological resources, are known to inhabit the Project **site.**

NOW THEREFORE BE IT RESOLVED, upon the basis of the aforementioned findings, the City Council hereby denies the appeal, adopts the mitigated negative declaration and approves the Project, subject to the elimination of the gas station and the Conditions of Approval.

IN COUNCIL, HAYWARD, CALIFORNIA	, 2000
ADOPTED BY THE FOLLOWING VOTE:	
AYES:	
NOES:	
ABSTAIN:	
ABSENT:	
ATTEST: City Clerk of the City of	Hayward
APPROVED AS TO FORM:	
City Attorney of the City of Hayward	
City Tittorney of the City of Hayward	

Due to the size, type or quality of the additional attachments, they are not scanable and therefore are not available for website viewing. The report, in its entirety, is available in the City Clerk's Office, Planning Division, and at the Main Library.